

REMARKS

In the Office Action, the Examiner indicated that claims 1 through 6 are pending in the application, and the Examiner rejected all claims.

The Objections to the Drawings

On page 2 of the Office Action, the Examiner objected to the drawings for containing reference characters 42 and 81, which do not appear in the description, and for containing an “unknown symbol” above reference number 28. Applicants have amended Figure 1 to remove these characters/symbols in accordance with the Examiner’s requirement.

Also on page 2 of the Office Action, the Examiner objected to Figure 2 for having the “performance monitor” labeled “250” instead of “50” as it is in the specification. Applicants have amended Figure 2 to include reference numeral “50” to agree with the specification. Replacement sheets of drawing containing Figures 1 and 2 as amended are enclosed with this response, along with marked-up versions of Figures 1 and 2 showing the changes.

The Objection to the Specification

On page 3 of the Office Action, the Examiner objected to the specification, page 4, line 5, for containing a typographical error. Applicant has amended the specification in accordance with the Examiner’s requirement.

The Claim Objections

On pages 3 and 4 of the Office Action, the Examiner objected to claims 1, 3, and 5 for various reasons. Applicant has amended the claims in accordance with the Examiner's suggestion.

The §112 Rejections

On page 5 of the Office Action, the Examiner rejected claims 2 and 6 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement, and on page 7 of the Office Action, the Examiner rejected claims 1-6 under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 2 and 6 have been canceled. Accordingly, the Examiner is requested to reconsider and withdraw the rejection of claims 2 and 6 under 35 U.S.C. §112.

Claim Rejections, 35 U.S.C. §102

In item 11 on page 8 of the Office Action, the Examiner rejected claims 1-6 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,557,548 to Gover et al. ("Gover").

The Present Invention

The present invention is a performance monitor having plural counting elements (e.g., performance monitor counters or PMC's) and at least one control element (e.g., a monitor mode control register or MMCR), where each counting element is controlled by the control element to pair or group the counting elements so that the overflow from one

counting element can be directed to its pair/group. In a preferred embodiment of the present invention, when the number of events to be monitored is less than the number of counting elements, the control element groups the counting elements by dividing the number of available counting elements by the number of events being monitored by the counting elements; taking the integer portion of the result of this dividing step and assigning a number of counting elements, equal to that integer, to each of the events to be counted; and, if there are any remaining unassigned counting elements, assigning the unassigned counting elements to at least one of the events.

U.S. Patent No. 5,557,548 to Gover et al.

U.S. Patent No. 5,557,548 to Gover et al. ("Gover") teaches a method and system which monitors specified events among the number of events within a data processing system. An MMCR allows control over which PMCs are used to monitor which events, and this control enables the ability of certain of the PMCs to be used for overflow of other PMCs.

The Cited Prior Art Does Not Anticipate the Claimed Invention

The MPEP and case law provide the following definition of anticipation for the purposes of 35 U.S.C. §102:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP §2131 citing *Verdegaal Bros. v. Union Oil Company of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987).

As noted above, the present invention is directed to a performance monitor that calculates the division of plural PMCs among events being monitored by the PMCs. The present invention improves upon the functionality of Gover by enabling the MMCR to calculate the optimal division of the PMCs among the events being monitored, when there are fewer events than PMCs. This division calculation is explicitly now claimed in all of the independent claims, and thus all of the dependent claims. Since Gover does not teach or suggest these claimed elements, it is submitted that the present invention patentably defines over Gover et al. Accordingly, each of the independent claims, and all claims depending therefrom, patentably define over Gover and are in condition for allowance.

Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any fees associated with this communication to Deposit Account No. 09-0447.

Respectfully submitted

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Date

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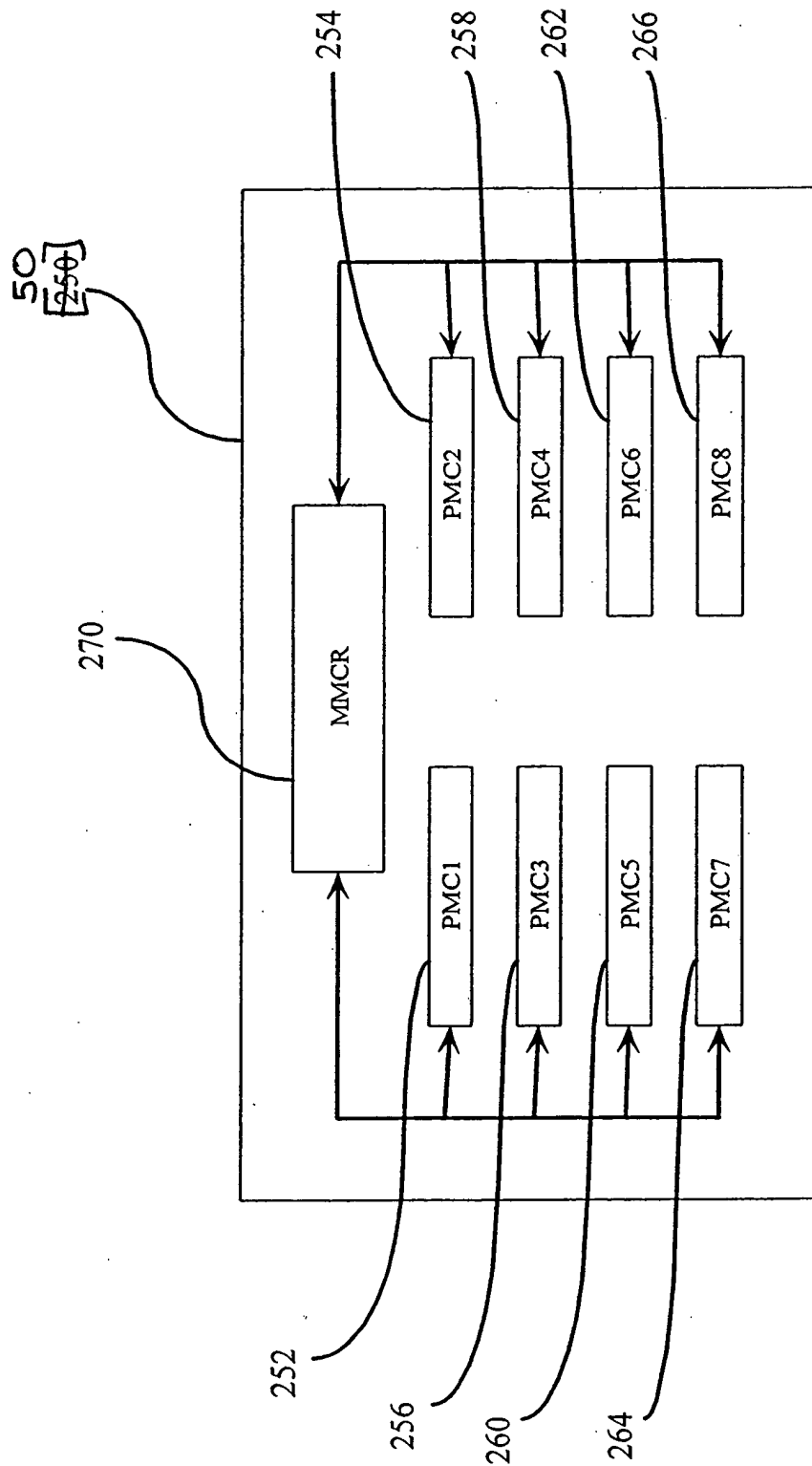


Figure 2